UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

D.H. PIERCE DESIGN ASSOCIATES, INC., d/b/a PIERCE ARCHITECTS, Plaintiff,))))	
v.)	DOCKET NO: 05-11626 RWZ
D.L. COTE & COMPANY, LLC, and DEE L. COTE, in his Individual Capacity, Defendants.)))))	

MOTION OF D.H. PIERCE DESIGN ASSOCIATES, INC.
TO VACATE DISMISSAL WITHOUT PREJUDICE
TO ALLOW THE FILING OF AN AGREEMENT FOR JUDGMENT

Now comes the plaintiff, D.H. Pierce Design Associates, Inc. d/b/a Pierce Architects ("Pierce"), and moves this Court to vacate the Dismissal Without Prejudice entered in this action. As grounds therefore, Pierce states that the dismissal of this action was to allow the defendants, D.L. Cote & Company, LLC and Dee L. Cote (collectively "Cote"), to make payment of an agreed settlement amount in installments over time. As security for those payments, Cote granted pierce a third mortgage on real property located in Salem, Massachusetts. Pierce and Cote further agreed that if Cote failed to make all required payments, or otherwise violated the terms of the mortgage, Pierce could file with this Court an Agreement for Judgment executed by Cote.

Cote has now ceased making payments as agreed by the parties, and the real property located in Salem, Massachusetts securing those payments has been foreclosed on by the primary lender, with no money available to pay Pierce. As both of these events constitute defaults by Cote of the agreements entered into between Pierce and Cote, Pierce seeks to reopen this action for the purpose of filing an Agreement for Judgment as contemplated by the parties in the event of default by Cote.

WHEREFORE, Pierce respectfully requests that this Court vacate the dismissal of this action for good cause, and reinstate it to the docket to permit Pierce to file the Agreement for Judgment previously executed by the defendant.

Respectfully submitted,

D.H. PIERCE DESIGN ASSOCIATES, INC.

By its attorneys,

    /s/sbolotin
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